

**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
OFFICE OF CONSERVATION AND COASTAL LANDS  
Honolulu, Hawaii**

180-Day Exp. Date: May 30, 2010

March 11, 2010

**Board of Land and  
Natural Resources  
State of Hawaii  
Honolulu, Hawaii**

**REGARDING:** Conservation District Use Application (CDUA) HA-3532  
Public Purpose Subdivision of Land

**APPLICANT:** University of Hawaii-Hilo

**LANDOWNER:** State of Hawaii

**LOCATION:** Puako, Lalamilo, South Kohala, island of Hawaii

**TMKs:** (3) 6-9-001:001 and (3) 6-6-002:031

**SUBZONE:** General

**BACKGROUND:**

The University of Hawaii at Hilo received approval from the Board of Land and Natural Resources (Board) for a 65-year direct lease of five acres of land adjacent to the existing Puako Boat Ramp on September 14, 1990 for the purpose of establishing a West Hawaii base for the Kalaukaua Marine Education Center (KMEC). The proposed Center will facilitate specialization in marine sciences. Prior to establishing the Marine Center site, consolidation and subdivision of land is required.

**DESCRIPTION OF AREA/CURRENT USE:**

The subject area lies within the Urban and Conservation, General subzone State land use districts and is located near the coast at Puako on the southwest side of the island of Hawaii, Lalamilo ahupua'a within the South Kohala District. The Conservation District is located on the mauka side of the parcels. To the north is Wailea Bay subdivision; to the southwest is the Puako Small Boat Ramp; to the south is Puako Beach Drive and to the west is vacant land (**Exhibit A, B & C**).

According to the applicant, there are no existing structures on the subject parcel and it is believed that the area has not been graded or landscaped and there are no utilities. Access to the site is via Puako Beach Drive. The Ala Kahakai National Historic Trail is located along the shoreline approximately 200-feet makai of the subject area.

No federal or State listed threatened, endangered or candidate flora or fauna species have been observed in the area and it is believed that no unique habitat resources important to native or protected flora or fauna are present.

An archaeological assessment conducted in 2008 was reviewed and accepted by the State Historic Preservation Division. No historic properties or cultural materials were identified within the project site.

### **PROPOSED USE**

The proposed action is limited to consolidation of two State-owned parcels: TMK: (3) 6-9-001:001 and (3) 6-6-002:031 that will then be subdivided into two parcels Lot A-1, the five-acre KMEC site and Lot A-2, the 158.72-acre remainder lot (**Exhibit D**). Upon completion, both lots will contain Urban and Conservation land.

The purpose of the proposal is to create a five-acre lot for the future development site of the KMEC to comply with conditions established by the Board of Land and Natural Resources as part of the decision to approve the KMEC lease agreement.

### **SUMMARY OF COMMENTS**

The Office of Conservation and Coastal Lands referred this application to the following agencies for review and comment: the State-Department of Health; the Office of Hawaiian Affairs; the Office of Environmental Quality Control; the Department of Land and Natural Resources Divisions of: Aquatic Resources, Boating & Ocean Recreation, Conservation and Resource Enforcement, Engineering, Forestry & Wildlife, Historic Preservation, Na Ala Hele and the Hawaii District Land Office; the County of Hawaii Department of Planning and the Puako Community Association. In addition, the CDUA was also sent to the nearest public libraries, the Kailua-Kona Public Library and the Thelma Parker Public Library to make this information readily available to those who may wish to review it.

Comments were received by the following agencies and summarized by Staff as follows:

#### **THE STATE**

##### **OFFICE OF HAWAIIAN AFFAIRS**

We see the potential benefit of the proposal and do not oppose its concept. A fair public assessment of this project may be made once the details of the project are available.

OHA notes that the applicant intends to construct the Center to meet the silver LEED standard.

*Applicant's response*

We acknowledge that OHA recognized the potential benefit of the proposed facility and support the overall concept of the Kalakaua Marine Education Center. We also acknowledge your recognition of the applicant's design and construction goals to meet the Leadership in Energy and Environmental Design (LEED) Silver.

DEPARTMENT OF LAND AND NATURAL RESOURCES

*Boating and Ocean Recreation (DOBOR)*

We are very excited about this project. Perhaps we could build a comfort station. A suggestion has been sent to Representative Cindy Evans regarding a comfort station in conjunction with the proposed project, perhaps we can all work together on this.

*Applicant's response*

The current CDUA is limited to the consolidation and subdivision of land for the Kalaukaua Marine Education Center (KMEC). The applicant intends to process a second CDUA addressing the development of the Center once project design is completed and the County of Hawaii's Special Management area permitting process is near completion for the KMEC.

We acknowledge and appreciate the support and enthusiasm that your staff has continually shown for this project.

In response to the suggestion to include a comfort station for the neighboring Puako Small Boat Ramp as part of the KMEC, the applicant agrees that there is a need for facility improvements at the boat ramp. However, there is no direct connection between KMEC and the boat ramp site and the development of boat ramp amenities are unrelated and beyond the scope of the KMEC project. UH-Hilo is willing to work with DOBOR staff to ensure that KMEC is planned and developed in coordination with future facility improvements being planned at the boat ramp.

*Engineering*

Please take note that the project site, according to the Flood Insurance Rate Map (FIRM), is located in Flood Zone X. The National flood Insurance Program does not have any regulations for developments within Zone X.

The applicant should provide the water demands and calculations to the Engineering Division so it can be included in the state Water Projects Plan Update.

*Applicant's response*

We acknowledge the confirmation that the project site is located in Zone X according to the Flood Insurance Rate Map and that the National Flood Insurance Program does not have any regulations for developments within Zone X.

The estimated potable water demand for the proposed project is discussed in the Final Environmental Assessment. The maximum daily potable water usage is anticipated to be 8,160 gallons per day.

*Division of Forestry and Wildlife (DOFAW)*

No comments. UH-Hilo acknowledges the public Ala Kahakai Trail and the consolidation/subdivision and the proposed Marine Center will not impact the trail or public access.

*Applicant's response*

We note DOFAW has no comments to offer at this time. We also note acknowledgement that the consolidation/subdivision action and the future development of the KMEC will not impact the Ala Kahakai National Historic Trail or public access to the trail.

*Na Ala Hele*

Records fail to disclose the evidence of any trails through the subject parcels that may be claimed by the State of Hawaii pursuant to the Highways Act of 1892 or Chapter 264-1, HRS.

*Applicant's response*

We acknowledge that there are no known public trails through the subject parcels that may be claimed by the State of Hawaii pursuant to the Highways Act of 1892 or Chapter 274-1, HRS.

*Hawaii District Land Office (HDLO)*

No comments

COUNTY OF HAWAII

PLANNING DEPARTMENT

On December 11, 2009, the proposed consolidation of the two lots and resubdivision into two lots was determined to be exempt from the Special Management Area's (SMA) definition of development and does not require any SMA permits.

We note that proposed Lot A-1 is approximately 200-feet from the coastline. It will also be set back about 80-feet mauka of the Ala Kahakai National Historic Trail.

In reference to the establishment of the Kalakaua Marine Education Center, the cost of the proposed improvements and whether the project will have a substantial adverse effect on the SMA will determine whether a SMA Minor Permit or Major Use permit will be required.

*Applicant's response*

We acknowledge the County of Hawaii's determination that the proposed consolidation and resubdivision action of the two lots into two lots is exempt from the Special Management Area definition of development and does not require an SMA permit and that the project site is approximately 200-feet from the coastline and will be set back about 80-feet mauka of the Ala Kahakai National Historic Trail.

The CDUA being processed is limited to the consolidation and subdivision of land. The applicant intends to process an SMA Major Use permit application addressing the development of the KMEC as part of the project design process. A subsequent CDUA would be submitted when the county's SMA permitting process is near completion.

**FIRE DEPARTMENT**

Upon construction of the Kalaukaua Marine Education Center, fire apparatus access roads shall be in accordance with the Uniform Fire Code (UFC) Section 10.207 and water supply shall be in accordance with UFC section 10.301(c).

*Applicant's response*

The facility will be designed to conform to applicable codes, including the Uniform Fire Code (UFC) Section 1-.207 for fire apparatus access roads and UFC section 10.301(c) for water supply.

**ANALYSIS**

After reviewing the application, by correspondence dated December 4, 2009, the Department has found that:

1. The proposed use is an identified land use in the General subzone of the Conservation District, pursuant to §13-5-22, Hawaii Administrative Rules (HAR), P-6 PUBLIC PURPOSE USES Land uses undertaken buy the State of Hawaii to fulfill a mandated governmental function, activity, or service for public benefit and in accordance with public policy and the purpose of the conservation district. Please be advised, however, that this finding does not constitute approval of the proposal;

2. Pursuant to §13-5-40 of the HAR, a Public Hearing is not required;
3. In conformance with Chapter 343, Hawaii Revised Statutes (HRS), as amended, and Chapter 11-200, HAR, the Final Environmental Assessment has been reviewed and accepted by the University of Hawaii at Hilo. Notice was published in the March 23, 2009 issue of the Environmental Notice.

Notice of CDUA HA-3525 was published in the December 23, 2009 issue of the Environmental Notice. Documentation from the County of Hawaii dated January 11, 2010 states that the proposed subdivision is exempt from the Special Management Area's definition of development and does not require any SMA permits. In regards to the establishment of the Center, the cost of the proposed improvements and whether the project will have a substantial adverse effect on the SMA will determination whether a SMA Minor or Major will be required.

Staff notes the Department accepted the CDUA for consolidation & subdivision of land and the establishment of the Marine Center. At this time, the project design for the Center is not yet completed therefore this CDUA is just for consolidation and subdivision of the parcels.

#### CONSERVATION CRITERIA

The following discussion evaluates the merits of the proposed land use by applying the criteria established in §13-5-30, HAR:

- 1) *The proposed use is consistent with the purpose of the Conservation District.*

The objective of the Conservation District is to conserve, protect and preserve the important natural resources of the State through appropriate management and use to promote their long-term sustainability and the public health, safety and welfare.

The proposed consolidation and subdivision is the first step to develop State land for a public research and education center in support of the University of Hawaii-Hilo's Marine Science programs for public benefit.

- 2) *The proposed land use is consistent with the objectives of the Subzone of the land on which the use will occur.*

The objective of the General Subzone is to designate open space where specific conservation uses may not be defined, but where urban uses would be premature. The proposed used is an identified land use that does not infringe upon the existing open space.

- 3) *The proposed land use complies with the provisions and guidelines contained in Chapter 205A, HRS entitled "Coastal Zone Management", where applicable.*

Staff believes the proposed use is consistent with Chapter 205A, HRS. Documentation from the County of Hawaii dated January 11, 2010 states that the proposed subdivision is exempt from the Special Management Area's definition of development and does not require any SMA permits.

- 4) *The proposed land use will not cause substantial adverse impact to existing natural resources within the surrounding area, community or region.*

No development or construction activities shall be initiated with the proposed action.

- 5) *The proposed land use, including buildings, structures and facilities, shall be compatible with the locality and surrounding areas, appropriate to the physical conditions and capabilities of the specific parcel or parcels.*

The action shall have no physical impact on the land.

- 6) *The existing physical and environmental aspects of the land, such as natural beauty and open space characteristics, will be preserved or improved upon, whichever is applicable.*

The action shall have no physical impact on the land.

- 7) *Subdivision of land will not be utilized to increase the intensity of land uses in the Conservation District.*

The proposed action is the first step to establish a consolidated Marine Education Center for the University. Land use intensity will increase with the establishment of the KMEC, however this will be for public benefit.

- 8) *The proposed land use will not be materially detrimental to the public health, safety and welfare.*

Staff is of the opinion that the proposed subdivision will not be materially detrimental to the public health, safety and welfare.

## DISCUSSION

The proposed consolidation and subdivision of equal number of lots of State land shall facilitate the development of the University of Hawaii-Hilo's Kalaukaua Marine Education Center for public purpose. The proposal will create a five-acre lot for the future development site of the KMEC to comply with conditions established by the Board of Land and Natural Resources as part of the decision to approve the KMEC lease agreement.

## RECOMMENDATION

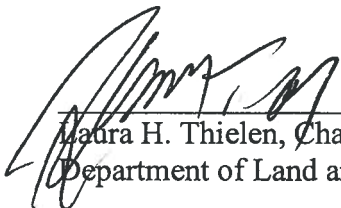
Based on the preceding analysis, Staff recommends that the Board of Land and Natural Resources APPROVE this application for Public Purpose Subdivision of land located at Puako, Lalamilo, South Kohala, island of Hawaii, (3) 6-9-001:001 and (3) 6-6-002:031 subject to the following conditions:

- 1) The applicant shall comply with all applicable statutes, ordinances, rules, regulations, and conditions of the Federal, State and County governments;
- 2) The applicant shall obtain a land disposition from the Department;
- 3) The applicant shall provide to the Office of Conservation and Coastal Land a copy of the final subdivision map approved by the County of Hawaii;
- 4) In issuing this permit, the Department has relied on the information and data that the applicant has provided in connection with this permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings;
- 5) The applicant understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;
- 6) Other terms and conditions as may be prescribed by the Chairperson; and
- 7) Failure to comply with any of these conditions shall render this Conservation District Use Permit null and void.

Respectfully submitted,



K. Tiger Mills, Staff Planner  
Office of Conservation and Coastal Lands



Laura H. Thielen, Chairperson  
Department of Land and Natural Resources



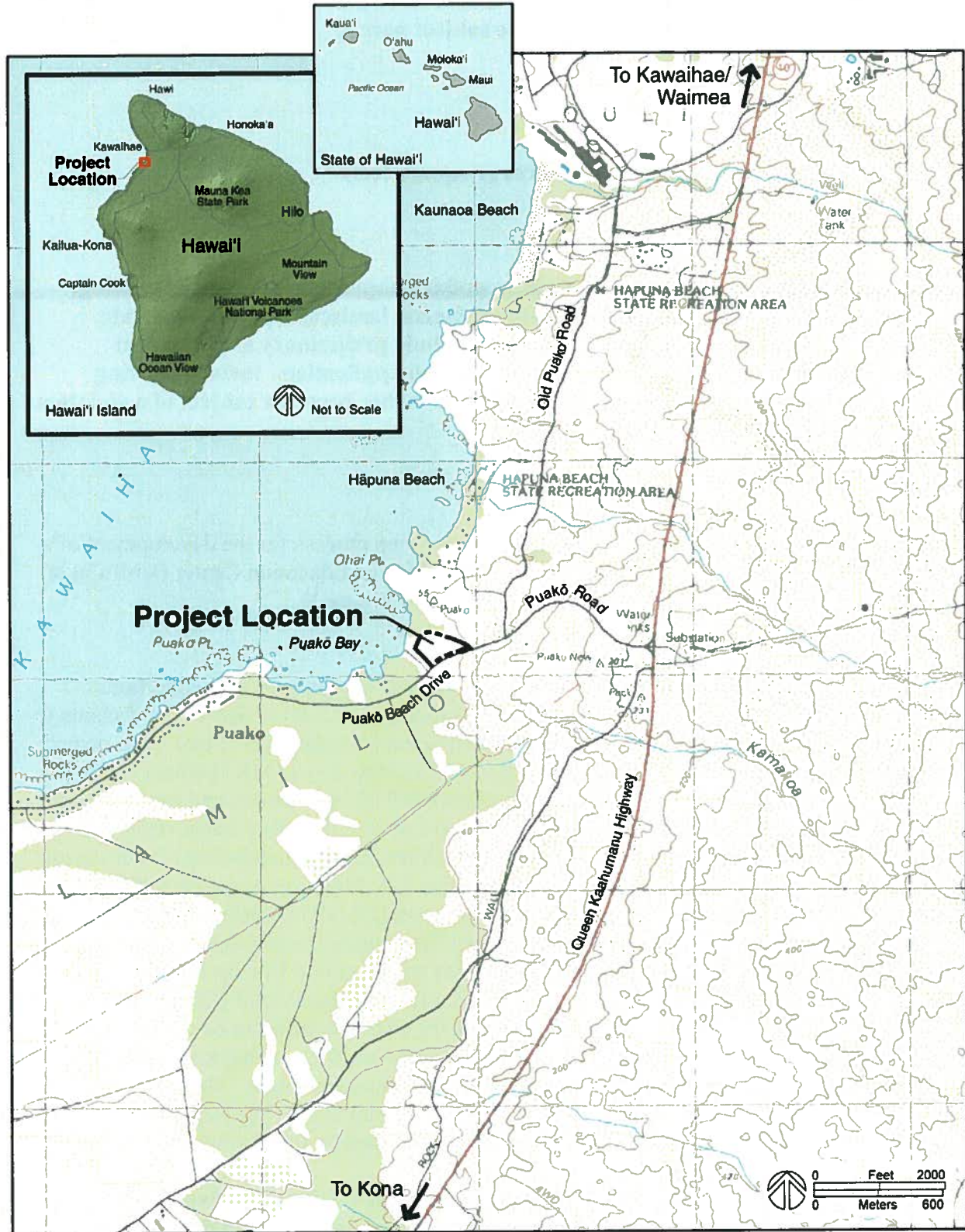
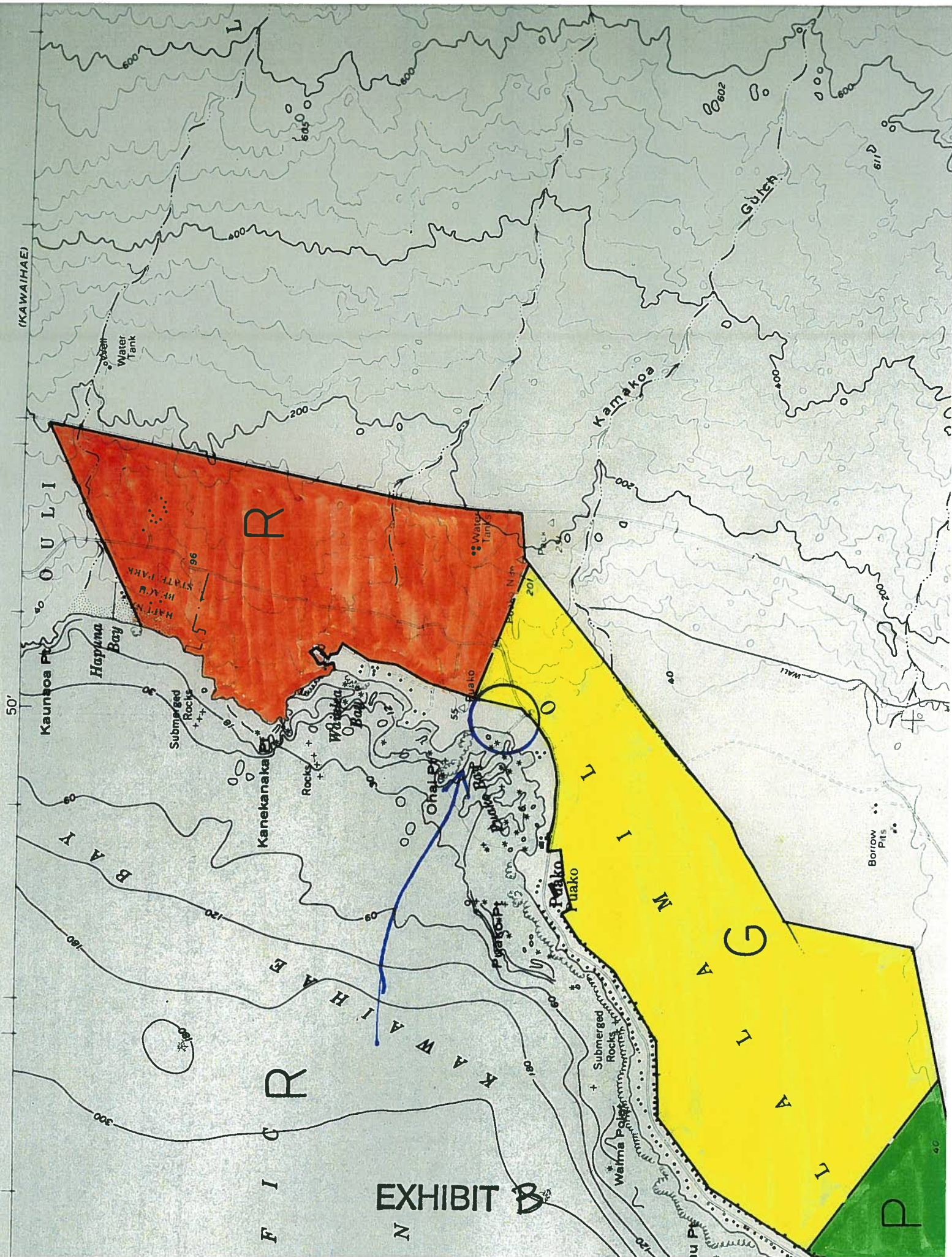


Figure 1: Location Map

EXHIBIT A

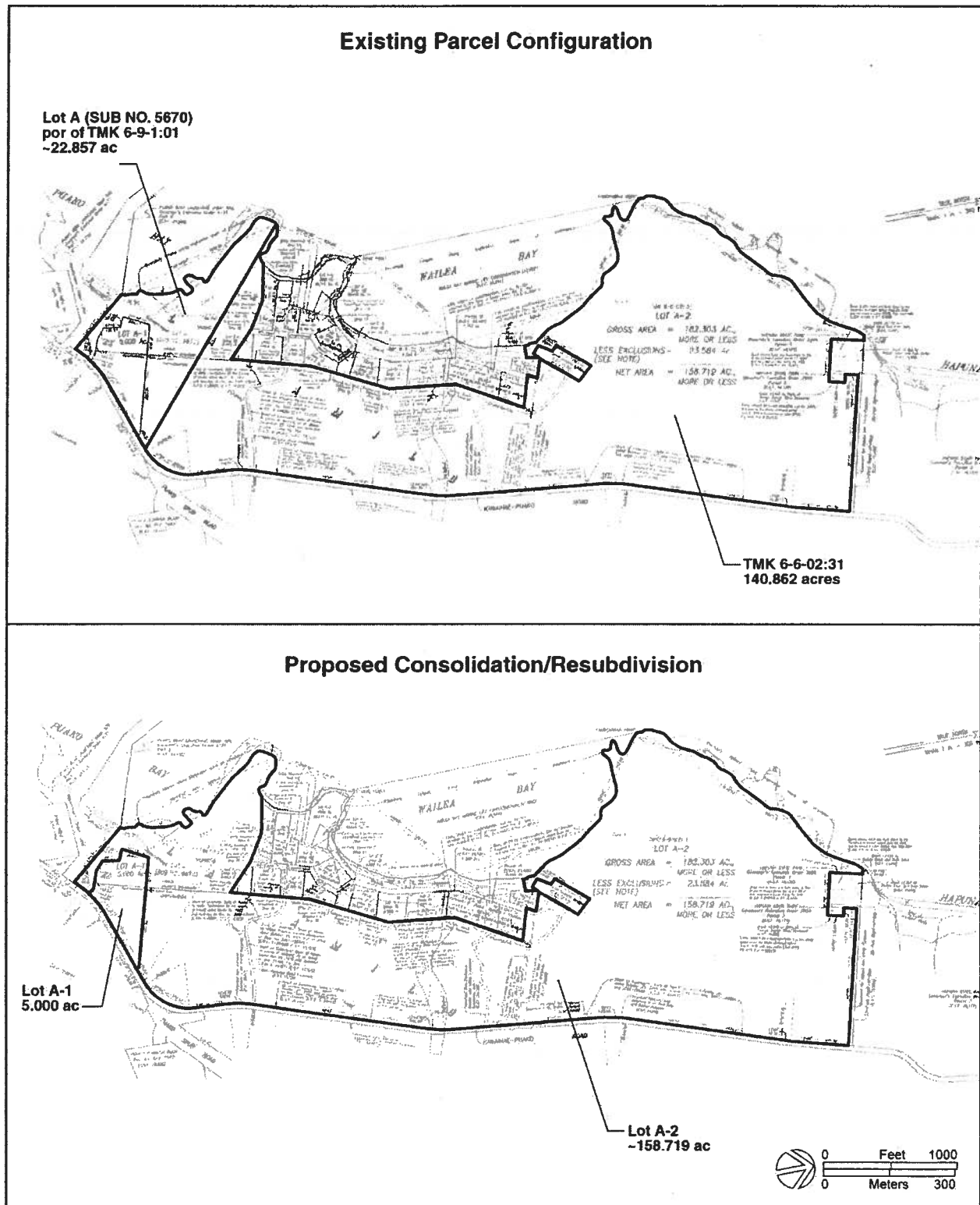












## EXHIBIT D